MINISTRY OF ECONOMY AND INDUSTRY
INDUSRIAL COOPERATION AUTHORITY, ICA

GUIDLINES FOR FOREIGN SUPPLIERS

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Whilst reasonable care and skill have been exercised in the preparation hereof, no translation can ever perfectly reflect the original. In the event of any discrepancy between the original Hebrew and this translation, the Hebrew alone will prevail.

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These Guidelines are in addition to the Guidelines and definitions specified in the General Guidelines and in the Guidelines for Israeli Buyers, and constitute an integral part of them.

1. General

The Industrial Cooperation Authority,(hereinafter: the "ICA") is a regulatory body responsible, inter alia, for the promotion and development of local industry, by rendering it obligatory for Foreign Companies and Suppliers (hereinafter: "Foreign Supplier") entering into contracts with the State of Israel, including with Government Corporation, local Corporation and health funds (hereinafter: "Israeli Buyer" or "Buyer"), to undertake local subcontracting, investments, research and development in Israel, transfer of know-how or purchase of Israeli Made Goods, or Work in Israel (hereinafter: "Industrial Cooperation").

The legal framework for the activity of the ICA is governed by the Mandatory Tenders Law, 5752 - 1992 (hereinafter: "Mandatory Tenders Law"), the Mandatory Tenders Regulations, 5753-1993 (hereinafter: "Mandatory Tenders Regulations") ,the Mandatory Tenders Regulations (Mandatory Industrial Cooperation), 5767 - 2007 (hereinafter: "Mandatory Industrial Cooperation Regulations" or "the Regulations"), the Municipalities Regulations (Mandatory Industrial Cooperation), 5770-2010 (hereinafter: "the Municipalities Regulations"), the Mandatory Tenders Regulations (Contracts with the Defense Establishment), 5753 - 1993 (hereinafter: "the Defense Establishment Regulations", the Mandatory Tenders (Preference of Israeli Made Goods), Regulations, 5755-1995 (hereinafter: "Preference of Israeli made Goods Regulations"), the Rules Of The Accountant General, Finance and Economy-Instructions 7.12.5 and the Government Procurement Agreement (hereinafter: "the GPA Agreement") in case it applies to the tender or the contract.

These Guidelines are in pursuance of the power vested in the ICA under the provisions of the Statutes and the Regulations enumerated above.

For the avoidance of doubt, it should be clarified that in these Guidelines, wherever the word "tender" or "contract" appears, this also means contracts made not by way of a tender, in accordance with Regulation 3(a) of the Mandatory Industrial Cooperation Regulations.

2. Definitions

The terms contained in these instructions shall have the same meanings as those and as such are defined in the Mandatory Tenders Law, the Mandatory Industrial Cooperation Regulations, the Mandatory Tenders (Preference of Israeli Made Goods) Regulations (hereinafter: "the Law and the Regulations"). Wherever any conflict exists, then the Law and the Regulations shall prevail.

Without derogating from the foregoing and solely for reasons of convenience, the following is a list of the principal terms that are to be used in these instructions:

2.1 Buyer - the State, a Government Corporation, a Local Corporation and a Health Fund. In the definition in the Regulations there are certain exceptions with regard to Government Companies (see Sections 63A, 4(a) of the Government Companies Law, 5735-1975).
2.2 Contract - a transaction for the purchase of goods, services or land or the carrying out of work, regardless of whether or not it is made by way of tender.
2.3 First Contract - a Contract of a Buyer, including any option granted to the Buyer under that Contract.
2.4 Continuation Contract - a contract made for the purpose of expanding or extending a first contract, other than by virtue of an option given to the Buyer under the first contract, as defined in Regulation 3(4) of the Mandatory Tenders Regulations.
2.5 Local Sub-Contract - a contract of a Foreign Supplier that won a tender, for the purchase of Israeli Made Goods or for the execution of Work or services in Israel, all for the purpose to carry out the contract which is the subject of the tender.
2.6 Israeli Made Goods - Goods manufactured in Israel or in the Area or another place, with the approval of the ICA provided that the price of the Israeli content therein constitutes at least 35 percent of the Bid Price (including taxes, levies, statutory fees, insurance and transportation expenses) unless confirmed otherwise in advance by the ICA.

For the purposes of this definition:

“Production” - the generation of goods or their substantial transformation as a result of which new or different goods or services were obtained;

"Israeli content Price" - as defined in the Preference of Israeli Made Goods Regulations; Positive Implementation - the amount of positive (excess) balance of implementation of a Foreign Supplier under an UICA.

2.7 Multiplier - recognition of activity in certain spheres of activity and in certain areas, in relation to the extent of industrial cooperation, at rates in excess of 100 percent.
2.8 Foreign Supplier - a manufacturer, supplier or importer of imported goods or a supplier of work that is not performed in Israel, whether himself or by means of others.
2.9 Foreign Supplier under monitoring - a Foreign Supplier who, according to the records of the ICA, is not meeting the targets of its approved Implementation Plan or his commitment to the undertaking of industrial cooperation.
2.10 Foreign Supplier who is an Importer - an Israeli Importer of imported goods, either by himself or through others.
2.11 Potential Foreign Supplier- a Foreign Supplier who intends to submit a bid for a Tender or to enter into a Contract with an Israeli Buyer for a particular transaction and who has not yet received notification as to his success in the Tender.
2.12 Foreign Supplier under a UICA - a Supplier who has signed an Umbrella Agreement for industrial cooperation with the ICA, in which a calculation is

made of the total of all the business activity of the Supplier and his procurements in Israel without the necessity of receipt of a separate Undertaking for each procurement.

2.13 Work in Israel - work, including services, that is performed in Israel or in the Area by an Israeli citizen or a permanent resident of Israel or a corporation registered in Israel, or in another place with the prior approval of the ICA.

2.14 Credit - a request for recognition of implementation of a commitment to industrial cooperation.

2.15 Contract Value - the sum of all payments, including taxes, included in the Contract, and inter alia:

2.15.1 Any payment which the Israeli Buyer is required to pay to any party to the Contract with it and which that party to the contract is required by the terms of the contract to transfer to another.

2.15.2 An estimate of the sum of the payments which any third party is required to pay to any party to the contract with the Israeli Buyer by virtue of the contract.

2.15.3 The sum of payments, including payments as stated in the Sections mentioned above, that are included in an option of the Israeli Buyer under the Contract.

3. Legally Obligated Contracts

3.1 Every contract between Israeli Buyer and Foreign Supplier which its value exceeds an amount in New Israeli Shekel (NIS) equivalent to 5 million Dollars (hereinafter: "Obligated Tender" or "Obligated contract").

3.2 A Continuation Contract to an obligated tender or an obligated contract, which its value exceeds an amount in NIS equivalent to 500,000 Dollars, and made within a period of 5 years from the date of the original binding contract (hereinafter: "Obligated Continuation Contract").

In this regard the following should be clarified:

"**Contract Value**" - as detailed in the definitions section above;

"**Foreign Supplier**" - any supplier who satisfies one of the following conditions:

- In relation to goods - a manufacturer, supplier or importer of goods that are not Israeli made goods.
- In relation to work (including services) - a supplier of work not performed in Israel or in the Area by an Israeli citizen or a permanent resident of Israel or a corporation registered in Israel
- The location of incorporation, the official address or business center of the Foreign Supplier or its shareholders is immaterial in this regard. A supplier will be defined as a "Foreign Supplier" according to the place of manufacture of the goods that are being supplied to the Israeli Buyer as part of the tender or the contract (and in relation to work, also depending upon the identity of the party carrying out the work).

- It should also be clarified that in a case in which the bid for the tender is being submitted by an importer, the manufacturer of the imported goods is deemed a "Foreign Supplier" in all respects.

For the removal of doubt, it should be clarified that in the event that the Contract Value, excluding an option, is lower than 5 million dollars and the Contract Value together with the option included in it exceeds 5 million dollars, the contract shall be legally obligated.

It should further be clarified that these instructions are applicable to all types and forms of contracts, regardless of whether they are performed by the Israeli Buyer itself or through another, including, contracts being performed in advanced procurement methods (PPP/PFI/BOT), franchises, contracts for the procurement of services, such as leasing services, services purchased as part of contracts for the purchase of goods such as maintenance works and so forth.

"Framework tender"

These instructions also apply in relation to a "**framework tender**" when the value of the contract for such purpose is the total estimate of the framework tender. Mandatory industrial cooperation will apply upon success of the foreign supplier in the framework tender for as long as the maximum potential contract value exceeds 5 million dollars. If the actual orders of the Israeli Buyer from the Foreign Supplier, at the end of the contract period amount to less than the obligation amount, the foreign supplier will be credited accordingly. For explanatory purposes:

In framework tenders, the Israeli Buyer is required to include the "ICA Attachment" in any preliminary stage of the tender, such as pricing stage or in a preliminary tender process or at any other preliminary stage, the total value of which is over $ 5 million. It should be clarified that even if a number of Foreign Suppliers win the preliminary or the tender process, each successful supplier shall be required to perform industrial cooperation according to his relative share (even if the amount of the contract with him is less than $5 million).

If the bid is only for an item price without quantity, the scope of the required industrial cooperation will be determined according to the assessment of the Israeli Buyer.

If there is a number of winners, the industrial cooperation obligation will be divided equally, unless proven otherwise, during the obligation period. It will be possible to update the amount of the obligation in accordance with the documents presented by the Foreign Supplier.

In this regard:

- "Framework Tender" - as defined in Regulation 17F of the Mandatory Tender Regulations - a tender in which more than one supplier is selected (hereinafter "framework tender supplier"), and where under the terms and conditions of the tender, following on from it, framework agreements are to be concluded with any "framework tender supplier", and where the identity of the supplier from whom any order of goods, work or services will actually be executed, will be determined from time to time during the period of the framework agreement, under the terms and conditions of the framework tender.

- "Framework Agreement" (between an Israeli Buyer and a Foreign Supplier) An agreement for the purchase of goods, work or services, concluded with a particular supplier on a particular subject and for a defined period, where a detailed breakdown of the goods, work or services that are to be provided in the framework thereof, their quantity or amount, is unknown at the time the agreement is concluded, and are determined by the Israeli Buyer, by way procurement orders from time to time during the agreement period.

Note:

In any case that concerns contracts that do not include procurement of goods or in special, complex and unprecedented circumstances, not specifically referable to the matters contained in these Guidelines, the Israeli Buyer must apply, in advance and before the tender documents are published, to the ICA and clarify with it specifically and on the merits in essence whether the obligation of industrial cooperation applies and to what extent.

4. Extent of Industrial Cooperation

4.1 The required extent of industrial cooperation amounts to a sum equivalent to at least 35% of the value of the transaction or the contract Value, when at least 20% (of the Contract Value) must be performed in a way of a local subcontracting.

4.2 If the purpose of the transaction or the contract is to purchase security equipment of the Ministry of Defense, including a reference unit within its meaning in the

4.3 Defense Establishment Regulations, the extent of the Industrial Cooperation required shall be at least 50% of the value of the transaction or the Contract Value (with the exception of contracts of the Defense Establishment financed by aid funds in respect of which a special purpose arrangement applies).

4.4 In respect of tenders that are concerned with civil procurement to which the GPA Agreement applies, the extent of required industrial cooperation from suppliers from the signatory countries, will amount to only 18%.

5. Methods of Industrial Cooperation

Industrial Cooperation shall be performed by means of local subcontracting, investments, research and development, transfer of know-how or purchase of Israeli Made Goods or work in Israel, including services, or in any other manner approved by the ICA, except for the following:

5.1 Expenses, including agent's commission, incurred by the foreign supplier in promotion of its sales in Israel.

5.2 Purchase of shares of companies that are subject to the Securities Law, at a rate at which the buyer does not become an interested party as defined in that Law.

5.3 Grants made by the Government as part of an investment program, purchase or financing of R&D works, will not be deemed to be industrial cooperation.

6. Period of Implementation of the Binding Undertaking

The Binding Commitment to Industrial Cooperation must be performed during the period of validity of the Contract, the subject of the tender. However, the ICA may, for reasons pertaining to the nature of the industrial cooperation or complexity of the tender, extend the period of time allocated for the implementation of industrial cooperation.

7. Report on Implementation of Industrial Cooperation

General

A Foreign Supplier is required to report on the implementation of the Industrial Cooperation implementation plan that he has undertaken to execute, in accordance with the milestones defined therein, and this at the end of each calendar year, and by no later than March 31, following the end of the reporting year, or upon request of the ICA from time to time, whichever is the earlier (hereinafter "the Reporting Date").

The processing of a report of a Foreign Supplier as to implementation of Industrial Cooperation is one of the main procedures in the work of the ICA. The Industrial Cooperation must be carried out in accordance with the milestones set in the Implementation Plan submitted by the Foreign Supplier with his bid in the Tender and approved by the ICA prior to signature of the Contract between the Foreign Supplier and the Israeli Buyer (see Guidelines to Israeli Buyers).

7.1 Manner of Submission of the Report by the Foreign Supplier:

The Report is to be submitted to the ICA on the Report Forms, Appendices C and C1 to the Instrument of Binding Undertaking, or the UICA, as the case may be.

7.2 "Appendix C" constitutes an annual Implementation Report of all the Industrial Cooperation engaged in by the Foreign Supplier (whether by means of a local subcontracting or in any other way prescribed in the Regulations and approved by the ICA) during the reporting period, meaning the year that is the subject of the Report (hereinafter "Annual Implementation Report" or "Annual Claims Report") .

7.3 "Appendix C1" is a Form of Application for recognition of actually implemented Industrial Cooperation, from an Israeli supplier (hereinafter "Claim for Industrial Cooperation Credit").

7.4 "Annual Report Excel" is an Excel table summarizing all of the claims submitted as Appendix C1s.

The Implementation Report (Appendix C) must be submitted to the ICA with the attachment of the Claims for Industrial Cooperation Credits (Appendix C1), on the date specified in subsection (a), both documents having been signed by the authorized signatory of the Foreign Supplier and authorized signatory of the local suppliers in which the Industrial Cooperation took place.

The Foreign Supplier must also attach to the Implementation Report, an Auditor's Opinion letter regarding Industrial Cooperation (the Auditor of the Corporate), certifying the correctness of the Report and the financial statements in it.

The said Auditor's Opinion letter is to be provided in the form attached to Appendix C, as an integral part of it.

In cases in which implementation is **not by way of purchase of goods or an order for Israeli-made work,** meaning in cases of investment, research and development, transfer of know-how or any other method approved by the ICA, the scope of Industrial Cooperation that will be recognized will be determined in advance with the consent of both the Foreign Supplier and the ICA. Appendices C and C1 must be completed including the Auditor's Opinion letter and certification of the Israeli Supplier, mutatis mutandis.

Final Report - no later than 30 days from the end of the period of the Binding Undertaking or the UICA, as the case may be, the Foreign Supplier will report on the conclusion of the Industrial Cooperation or on conclusion of the local subcontracting that he undertook to perform. The Report will be made by means of Appendix C attaching to it an Auditor's Opinion letter. Final discharge of the Foreign Supplier's obligations is subject to written confirmation of the ICA.

7.5 Examination of the Report Forms

(a) Upon receipt of the annual Implementation Reports, the ICA will examine whether all the requirements and details have been fulfilled and whether the entire necessary documentary proof has been attached, including, Auditor's Opinion letter and Certificates of the Authorized Signatories of the local Suppliers through whom industrial cooperation was carried out, as required. The ICA will also examine the documentary proof and certifications submitted to it including whether the actual implementation that has taken place is recognized as Industrial Cooperation in accordance with the Regulations and the ICA's Guidelines.

(b) In so far as in the course of the examination it emerges that details, documentary proof, signatures are missing or that the actual amount of implementation differs from the amounts specified in the annual Implementation Reports, Appendix C and Appendix C1, or alternatively, implementations have been reported that are not recognized under the Regulations and Guidelines, as Industrial Cooperation, the Foreign Supplier will be required to provide explanations or to amend the Report within 14 days from the date of receipt of the ICA's request.

(c) The ICA may, and at its discretion, at any time conduct, through by a party acting on its behalf, an in-depth and fundamental examination including by the checking of invoices and documents of the Foreign Supplier, for the purpose of clarifying and authenticating details of the Report.

(d) For the removal of doubt, it is a condition of recognition of implementation of the binding commitment to Industrial Cooperation, that the implementation meets all the conditions of the Regulations and of the ICA Guidelines and has been recognized as such by the ICA.

Note:

It should be clarified that every Foreign Supplier, including a Foreign Supplier who is a signatory of an UICA with the ICA, is committed to a periodic report in accordance with these Guidelines. Provided that the Reports that are received from a Foreign Supplier under UICA shall be deemed to be "one implementation basket" as detailed in the UICA and also in Directive No. 4 of the Guidelines for Israeli Buyers.

8. Rules For Recognition of Industrial Cooperation

General

As part of the monitoring and control procedures conducted by the ICA as to performance of the obligations of the Foreign Suppliers, and in the context of examination of their implementation reports, the ICA examines the Industrial Cooperation actually carried out by them and at the end of the process it decides whether or not to recognize them.

8.1 Nature of Industrial Cooperation:

8.1.1 **Direct** Industrial Cooperation - local subcontracting

In practical terms, a local subcontracting means direct Industrial Cooperation and therefore it must have a direct link to the project that is the subject of the Contract. A local subcontracting is made by contracting with Israeli subcontractors and can be performed in a number of ways, such as: purchase of Israeli-made goods, manufacture of goods in Israel, performing work or services in Israel, transfer of know-how, research and development, and any other form of Industrial Cooperation that is intended for the purpose of performing the contract and approved in advance by the ICA.

As a general rule, the extent of the local subcontracting will amount to 20% of the Contract Value, unless otherwise approved in advance by the ICA (see in this regard Guidelines to Israeli Buyers).

8.1.2 **Indirect** Industrial Cooperation

In addition to the direct Industrial Cooperation which is performed by way of a local subcontracting, a Foreign Supplier must perform the rest of the extent of the Industrial Cooperation required (if there is a balance) in one or more of the methods of Industrial Cooperation prescribed in Regulation 4 of the Regulations. Such Industrial Cooperation need not be directly linked to the Project that is the subject of the Contract but must meet the Guidelines for recognition as detailed below.

8.2 Guidelines for Recognition of Industrial Cooperation:

8.2.1 The following shall **not** be recognized as industrial cooperation:

* Expenses, including agent's commission, which the Foreign Supplier has incurred in promoting his sales in Israel.

* Purchase of shares that do not result in the Foreign Supplier becoming an interested party pursuant to the Securities Law.

* Grants made by the Government as part of a program of investment, purchase or financing of research and development works.

8.2.2 It is a condition for recognition of purchase of goods as Industrial Cooperation that the goods meet the definition of Israeli-made goods:

a. The Israeli content of each one of the goods constitutes at least 35% of its value;

b. The Work or Services, performed in Israel by an Israeli citizen or a permanent resident of Israel.

8.2.3 Industrial cooperation should be carried out by the foreign supplier with the Israeli industry. Therefore, agreements with service providers will not be recognized as industrial cooperation unless three cumulative conditions are proven:

a) The service meets the definition of "work in Israel" or "Israeli Made Goods" as defined in the Regulations;

b) The service reported to the ICA does not include a service intended to promote the sales of the foreign supplier;

c) The service reported to the ICA is closely related to the industrial cooperation activities carried out by the foreign supplier;

8.2.4 In special, complex or precedential cases where there is no specific reference to them in these Guidelines, the Foreign Supplier must apply in advance to the ICA, before entering into contract, to clarify with it specifically and on the merits of the case, whether the transaction is one that is recognized as Industrial Cooperation and as to the extent thereof.

8.3 Performance of the Foreign Supplier's obligation through a third party:

8.3.1 As a general rule, Industrial Cooperation must be performed by the Foreign Supplier.

8.3.2 A Foreign Supplier who wishes to engage in the business activity through a "subsidiary" as such is defined in the Securities Law, 5728-1968, will be accorded Industrial Cooperation recognition according to the rate of his holdings in the subsidiary.

8.3.3 A Foreign Supplier who wishes to engage in the business activity through a third party shall submit a written application in advance for examination and approval by the ICA.

8.3.4 It should be emphasized, for the removal of doubt, that recognition of such Industrial Cooperation will not be accorded to the Foreign Supplier for the purposes of Direct Industrial Cooperation (local subcontracting) unless it has been proved to the satisfaction of the ICA that it meets the definition of a local subcontracting and establishes a direct link to the Project, the subject of the Contract.

8.3.5 It should be clarified that the approval of the ICA of performance of a Foreign Supplier's obligation through a third party, does not absolve the Foreign Supplier from any of his obligations to the ICA, and they will continue to apply until the conclusion of the performance of all obligations.

9. Control and Enforcement

General

Following approval of the Foreign Supplier's Implementation Plan, the ICA will conduct regular monitoring of performance of its obligations. The procedure of control of implementation of the Foreign Supplier's binding commitments to Industrial Cooperation will be carried out at least once annually.

For the purpose of monitoring and control, the ICA shall set an internal ranking for each Foreign Supplier, according to the rate of his compliance with his binding commitments to Industrial Cooperation.

9.1 Regular monitoring

Once annually, after the passing of the date for submission of the Implementation Report, the ICA will produce a report as to the monitoring of implementation of the Foreign Supplier. The ranking of each Foreign Supplier will be updated according to the rate of his implementation in the previous year, and as compared with the last implementation plan approved for him.

A Foreign Supplier who does not meet the annual implementation rate in accordance with its Binding Undertaking and its approved Implementation Plan, will be classified in the system as a "Monitored Foreign Supplier" as detailed hereunder.

9.1.1 Monitored Foreign Supplier:

In so far as it becomes evident to the ICA, as part of the regular monitoring that it carries out, of implementation of the binding obligations of Foreign Suppliers, that according to its records, the Foreign Supplier is not meeting the targets of the Implementation Plan of its Binding Undertaking or its UICA, the ICA will send to the Foreign Supplier, through the pre-designated contact person:

9.1.1.1 A Warning Letter (hereinafter: "First Warning Letter") containing the following:

(a) Details of the implementation monitoring report showing that the Foreign Supplier is not meeting the rate of the annual implementation expected of him under the approved Implementation Plan (if not otherwise stated in the approved implementation plan, the annual rate is linear) and that it is being defined in its records as a "Monitored Foreign Supplier;"

(b) Notification that it has been debited with liability at the level (amount) of the agreed liquidated Damages prescribed in the Instrument of the Binding Undertaking or the UICA, as the case may be;

(c) A demand for a reasoned explanation from him within 30 consecutive days, attaching documents, as to why he is not meeting the annual implementation rate, as well as for the submission of an Amended Implementation Plan for approval of the ICA, to its satisfaction (hereinafter: "Amended Implementation Plan").

A warning to the effect that the ICA might bring the fact of him being a Monitored Foreign Supplier to the attention of Israeli Buyers as well as public publication of its name.

9.1.2 Following the aforementioned procedure, the ICA may:

(a) Approve Amended Implementation Plan and send written notice to that effect to the Foreign Supplier.

(b) Not approve the Amended Implementation Plan. In that event the ICA shall send written comments and instructions to the Foreign Supplier who will be required to revise or amend the Implementation plan in accordance with such comments and instructions. The Amended Implementation Plan will only be approved after all the requirements and instructions of the ICA have been satisfied.

9.1.3 A Monitored Foreign Supplier in respect of whom an Amended Implementation Plan has been approved will remain under monitoring for a further half-year from the date of ICA approval, in order to check compliance with the Amended Implementation plan. If the Foreign Supplier's rate of implementation improves and accords with the targets of his Amended Implementation plan at the expiration of the said half-year period, the caveat will be removed from the ICA's computerized system as to him being a Monitored Foreign Supplier, and the ICA will consider writing off the liability recorded against the Foreign Supplier in respect of the agreed liquidated damages.

9.1.4 If the Foreign Supplier has not submitted an Amended Implementation plan or has submitted a plan but it is not to the ICA's satisfaction, or where no improvement has occurred in his implementation rate, the Foreign Supplier will remain in the ICA's computerized system with the status of a Monitored Foreign Supplier, which might prejudice his prospects of competing for tenders or other contracts (such as for example rendering it obligatory for him to provide a guarantee as a condition of competing for tenders or new contracts, see in this regard Directive 1.3 of the Guild lines for Israeli Buyers or placing him on "Black List", see in this regard Directive 3.4 hereunder).

9.2 Enforcement Procedures:

General

In the case of a Foreign Supplier who does not meet the annual fulfillment rate required from him or the objectives of his approved implementation plan or did not perform at the end of the period to which he has committed all his obligations to the ICA (either as part of the Binding Undertaking or as part an UICA, as the case may be) and has not received written confirmation from the ICA as to a complete discharge of his obligations at the end of the period prescribed for such purpose, the ICA can be expected to initiate some or all of the enforcement proceedings against him, as detailed hereunder:

(a) The ICA will send a further Warning Letter to the Foreign Supplier to the effect that it is considering initiating a process against him of placing him on the "Black List" (hereinafter: "Second Warning Letter").

(b) The ICA may send a copy of the Second Warning Letter to the Accountant General, to the Minister concerned and to any other relevant party.

(c) The ICA will give the Foreign Supplier a period of 30 days from the date of receipt of the Second Warning Letter, to reply to it in writing.

(d) At the expiration of 30 days from receipt of the Second Warning Letter by the Foreign Supplier, the ICA may forward to the Accountant General and the Minister concerned the draft of its decision to include the Foreign Supplier in a "Black List". Implementation of the ICA decision is subject to consultation and receipt of the consent of the Accountant General.

(e) The ICA will set the period of time during which the Foreign Supplier will be included on the "Black List", this according to the circumstances of the case, including: the nature of the delay in the implementation rate, the delay as a percentage of the totality of the binding commitments and the steps taken by the Foreign Supplier to perform Industrial Cooperation, and provided that the length of such period shall not exceed five years.

(f) The ICA shall notify the Foreign Supplier in writing, with a copy to relevant Israeli Buyers, that in accordance with Regulation 10(b), it has been decided to place it on the "Black List."

Under Regulation 10(b) of the Regulations, a "Black List" is a list kept by the ICA containing names of Foreign Suppliers who have not abided by their binding commitments to Industrial Cooperation and who are prohibited from contracting with an Israeli Buyer for the prescribed period (up to 5 years).

9.3 Recovery of agreed Liquidated Damages and realization of Guarantee:

In addition to the foregoing, the ICA will proceed with the recovery of the aggregate amount of the agreed Liquidated Damages specified in the Binding Undertaking or in the UICA, as the case may be, by all lawful means available to it under any law.

If the Foreign Supplier has signed a Guarantee, the ICA will also act for the realization and forfeiture of the guarantee.

For the removal of doubt, it should be clarified that nothing in the contents of this Directive, including the amount of the Guarantee or the amount of the agreed Liquidated Damages, shall act as a limit or ceiling to the obligations of the Foreign Supplier.

In any instance of a breach on the part of a Foreign Supplier or a failure to comply with his obligations or to implement them, wholly or partially, the ICA may claim from the Foreign Supplier, a sum that is higher than the amount of the Guarantee or the agreed Liquidated Damages. It is further clarified that nothing by virtue of forfeiture of the

Guarantee shall preclude the ICA from making any claim or from requesting any right, claim and/or allegation or remedy bestowed upon it under any law.

9.4 Removal of Foreign Supplier from the Black List

A Foreign Supplier will only be removed from the "Black List" after it has completed the Implementation Plan in respect of whose non-performance it was placed on the "Black List", or after he has submitted an Amended Undertaking and Implementation Plan to the satisfaction of the ICA, or upon the expiration of the period set for his inclusion on the "Black List", whichever is the earlier.